IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 729 OF 2005

Ram Panchanan Das .. Appellant

Vs.

Geeta Panchanan Das and ors. .. Respondents

Mr. S. Purohit i/by P.V. Nichani for appellant.
Ms. Geeta Mulekar, AGP for Respondent Nos.4 and 5.

CORAM: B.H. MARLAPALLE, J.

Date : July 07, 2005.

P.C.:

1. After having heard the learned counsel for the respective parties it is evident that this appeal can be disposed off by giving directions at the admission stage itself.

2. The defendant no.1 and defendant no.3 are the parents of the appellant-plaintiff and defendant no.2 is his brother. Defendant Nos.1 to 3 filed reply to the Notice of Motion taken out by the plaintiff in S.C. Suit No.1927 of 2003 praying for temporary injunction. In the said reply the defendant nos.1 to 3 stated that the plaintiff had succeeded to obtain possession from defendant no.4 in respect of Room no.107 on first floor in Pratiksha Nagar, Building No.10, Sion (East), Mumbai 400 022 which is referred

to as suit premises, by misrepresentation and by producing false documents and/or in collusion with officers of Defendant Nos.4 and 5. This reply further indicated that defendant no.3 came to be allotted transit accommodation by MHADA in terms of Room Nos.003 and 107 in Pratiksha Nagar and Room No.003 was occupied by defendant nos.1 and 3 whereas Room No.107 was occupied by the plaintiff. Notwithstanding the inter se dispute between the plaintiff and defendant nos.1 to 3 about the entitlement of the plaintiff, it is clear that MHADA has to follow the due process of law when the plaintiff is required to vacate Room No.107.

3. It is, therefore, directed that as and when Room NO.107 is required to be vacated, the defendant no.4 will issue notices to the plaintiff and defendant nos.1 to 3 so as to follow the due process to seek the possession of the said room.

4. Appeal is disposed off in terms of the above directions.

(B.H. Marlapalle,J.)